



Reprinted
February 21, 2003

HOUSE BILL No. 1850

DIGEST OF HB 1850 (Updated February 20, 2003 11:29 AM - DI 105)

Citations Affected: IC 31-30; IC 31-32.

Synopsis: Commitment of minor for drug and alcohol treatment. Allows a juvenile court to order involuntary drug and alcohol treatment for a child. Allows a juvenile court to order a parent, guardian or custodian of a child to participate in any aspect of the child's treatment.

Effective: July 1, 2003.

Becker, Stilwell, Avery, Weinzapfel

January 23, 2003, read first time and referred to Committee on Human Affairs.
February 10, 2003, amended, reported — Do Pass.
February 20, 2003, read second time, amended, ordered engrossed.

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HB 1850—LS 6956/DI 105+



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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1850

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-30-1-1, AS AMENDED BY P.L.217-2001,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. A juvenile court has exclusive original
4 jurisdiction, except as provided in sections 9, 10, 12, and 13 of this
5 chapter, in the following:

6 (1) Proceedings in which a child, including a child of divorced
7 parents, is alleged to be a delinquent child under IC 31-37.

8 (2) Proceedings in which a child, including a child of divorced
9 parents, is alleged to be a child in need of services under
10 IC 31-34.

11 (3) Proceedings concerning the paternity of a child under
12 IC 31-14.

13 (4) Proceedings under the interstate compact on juveniles under
14 IC 31-37-23.

15 (5) Proceedings governing the participation of a parent, guardian,
16 or custodian in a program of care, treatment, or rehabilitation for
17 a child under IC 31-34-16 or IC 31-37-15.

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(6) Proceedings under IC 31-34-4, IC 31-34-5, IC 31-37-5, and IC 31-37-6 governing the detention of a child before a petition has been filed.

(7) Proceedings to issue a protective order under IC 31-32-13.

(8) Proceedings in which a child less than sixteen (16) years of age is alleged to have committed an act that would be a misdemeanor traffic offense if committed by an adult.

(9) Proceedings in which a child is alleged to have committed an act that would be an offense under IC 9-30-5 if committed by an adult.

(10) Guardianship of the person proceedings for a child:

(A) who has been adjudicated as a child in need of services;

(B) for whom a juvenile court has approved a permanency plan under IC 31-34-21-7 that provides for the appointment of a guardian of the person; and

(C) who is the subject of a pending child in need of services proceeding under IC 31-34.

(11) Proceedings concerning involuntary drug and alcohol treatment under IC 31-32-16.

(12) Other proceedings specified by law.

SECTION 2. IC 31-32-16 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 16. Involuntary Drug and Alcohol Treatment

Sec. 1. A proceeding under this chapter is separate from and does not affect:

(1) a proceeding for involuntary treatment under IC 12-26; or

(2) an order from a juvenile court under IC 31-37 that requires drug or alcohol treatment.

Sec. 2. (a) A parent, guardian, or custodian of a child may file a verified petition with the juvenile court in the county in which the child resides for involuntary drug and alcohol treatment if the child:

(1) is incapable of consenting; or

(2) refuses to consent;

to voluntary treatment.

(b) The verified petition must include an affidavit from a person described in section 4(a) of this chapter who has examined or treated the child not more than thirty (30) days before the filing of the verified petition. The affidavit must state that reasonable grounds exist to believe the child named in the petition is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1).



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(c) Involuntary drug and alcohol treatment under this chapter may include inpatient services.

(d) The judge of the juvenile court in which the verified petition is filed shall inform each parent, guardian, or custodian of the child that the parent, guardian, or custodian may be ordered to participate in any aspect of the child's treatment.

Sec. 3. A verified petition filed under section 2 of this chapter must include the name and age of the child and a summary of facts that support the petitioner's request for involuntary drug and alcohol treatment.

Sec. 4. (a) The juvenile court, after making an ex parte determination that there is probable cause to believe the child is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1), shall order the child named in the petition to undergo a drug and alcohol assessment. The assessment shall be performed by:

- (1) a psychiatrist (as defined in IC 11-10-3-1);
- (2) a physician (as defined in IC 12-15-35-12);
- (3) a psychologist with training in drug and alcohol assessment and treatment; or
- (4) an addiction counselor certified by a state or national accrediting body.

The person who performs the assessment under this section must be different from the person who performed the affidavit under 2 of this chapter. If it is determined that involuntary treatment is necessary, the assessment must include a recommended level of care and length of treatment.

(b) After completion of the assessment, the juvenile court shall conduct a hearing. Each person who performed an assessment must be present and available to testify at the hearing.

Sec. 5. Following a hearing, the juvenile court may order involuntary drug and alcohol treatment for not more than forty-five (45) consecutive days if the court finds by clear and convincing evidence that the child:

- (1) is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1);
- (2) is incapable of consenting to or refuses to consent to voluntary treatment services; and
- (3) will benefit from a period of involuntary drug and alcohol treatment.

Sec. 6. (a) Before the expiration of a period of involuntary treatment, the juvenile court shall conduct a review hearing to determine whether further treatment is necessary.

(b) The juvenile court may order an additional term of



1 treatment if it finds at the initial review hearing by clear and
 2 convincing evidence that the prerequisites enumerated in section
 3 6(a) of this chapter are present and further treatment is necessary.
 4 An additional term of involuntary treatment may not exceed
 5 forty-five (45) consecutive days and the juvenile court must
 6 conduct a review hearing before the expiration of the additional
 7 term. The court may order subsequent terms of involuntary
 8 treatment if at each review hearing the court makes findings
 9 required by this section.

10 (c) Each order for an additional term of treatment under
 11 subsection (b) must be supported by written findings of fact. The
 12 juvenile court shall issue written findings of fact not more than ten
 13 (10) days after the review hearing that orders an additional term
 14 of involuntary treatment.

15 Sec. 7. The juvenile court may order each parent, guardian, or
 16 custodian of the child to participate in any aspect of the child's
 17 treatment under section 5 or 6 of this chapter.

18 Sec. 8. The juvenile court may modify the original terms of
 19 involuntary drug and alcohol treatment if it finds by clear and
 20 convincing evidence that a substantial change in circumstances
 21 that supported the original terms and conditions of treatment has
 22 occurred.

23 Sec. 9. A parent, guardian or custodian is required to pay court
 24 costs, court fees, and the costs of assessment and treatment.

25 Sec. 10. The following may not be used as grounds for
 26 prohibiting an affidavit or excluding evidence under this chapter:

- 27 (1) The physician-patient privilege under IC 34-46-3.
- 28 (2) The psychologist-patient privilege under IC 25-33-1-17.
- 29 (3) The counselor-patient privilege under IC 25-23.6-6-1.

30 Sec. 11. The judge of the juvenile court may appoint a guardian
 31 ad litem for the child at any time.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Human Affairs, to which was referred House Bill 1850, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"(c) The judge of the juvenile court in which the petition is filed shall inform each parent, guardian, or custodian of the child that the parent, guardian, or custodian may be ordered to participate in any aspect of the child's treatment."

Page 3, line 16, after "psychiatrist" insert **"(as defined in IC 11-10-3-1)"**.

Page 3, between lines 16 and 17, begin a new line block indented and insert:

"(2) a physician (as defined in IC 12-15-35-12);"

Page 3, line 17, delete "(2)" and insert **"(3)"**.

Page 3, line 19, delete "(3)" and insert **"(4)"**.

Page 4, between lines 20 and 21, begin a new paragraph and insert:

"Sec. 8. The juvenile court may order each parent, guardian, or custodian of the child to participate in any aspect of the child's treatment under section 6 or 7 of this chapter."

Page 4, line 21, delete "8." and insert **"9."**

Page 4, line 26, delete "9." and insert **"10."**

Page 4, line 26, delete "may be" and insert **"is"**.

Page 4, line 27, delete "contribute towards the payment of" and insert **"pay"**.

Page 4, line 28, delete "treatment if the court determines the" and insert **"treatment."**

Page 4, delete lines 29 through 34.

and when so amended that said bill do pass.

(Reference is to HB 1850 as introduced.)

SUMMERS, Chair

Committee Vote: yeas 11, nays 0.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1850 be amended to read as follows:

Page 2, delete lines 21 through 30.

Page 2, line 40, after "may" insert "**file a verified**".

Page 2, line 41, after "petition" insert "**with**".

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"(b) The verified petition must include an affidavit from a person described in section 4(a) of this chapter who has examined or treated the child not more than thirty (30) days before the filing of the verified petition. The affidavit must state that reasonable grounds exist to believe the child named in the petition is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1)."

Page 3, line 4, delete "(b)" and insert "(c)".

Page 3, line 6, delete "(c)" and insert "(d)".

Page 3, line 6, after "which the" insert "**verified**".

Page 3, line 10, after "A" insert "**verified**".

Page 3, delete lines 14 through 15.

Page 3, line 16, delete "5." and insert "**4.**".

Page 3, line 16, delete "After receiving a petition filed under this chapter, the" and insert "**The juvenile court, after making an ex parte determination that there is probable cause to believe the child is a drug or alcohol abuser (as defined in 440 IAC 4.4-1-1),**".

Page 3, line 17, delete "juvenile court".

Page 3, line 26, before "If" insert "**The person who performs the assessment under this section must be different from the person who performed the affidavit under 2 of this chapter.**".

Page 3, line 32, delete "6. (a)" and insert "**5.**".

Page 3, delete lines 41 through 42.

Page 4, delete lines 1 through 3.

Page 4, line 4, delete "7." and insert "**6.**".

Page 4, delete lines 22 through 25.

Page 4, line 26, delete "8." and insert "**7.**".

Page 4, line 28, delete "6 or 7" and insert "**5 or 6**".

Page 4, line 29, delete "9." and insert "**8.**".

Page 4, line 34, delete "10." and insert "**9.**".

Page 4, after line 35, begin a new paragraph and insert:

"Sec. 10. The following may not be used as grounds for prohibiting an affidavit or excluding evidence under this chapter:

(1) The physician-patient privilege under IC 34-46-3.

(2) The psychologist-patient privilege under IC 25-33-1-17.



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(3) The counselor-patient privilege under IC 25-23.6-6-1.

Sec. 11. The judge of the juvenile court may appoint a guardian ad litem for the child at any time."

Renumber all SECTIONS consecutively.

(Reference is to HB 1850 as printed February 11, 2003.)

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